

1 AMENDMENT TO HOUSE BILL 2459

2 AMENDMENT NO. _____. Amend House Bill 2459 by replacing
3 the title with the following:

4 "AN ACT in relation to apprentice programs."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 1. Short title. This Act may be cited as the
8 Apprentice/Training Equity Act.

9 Section 5. Statement of policy. It is the policy of the
10 State of Illinois to ensure full and equitable employment
11 opportunities for minorities and females in the building
12 trades on all construction contracts funded in whole with
13 State funds. Lack of employment opportunities for minorities
14 and females in the building trades impedes economic
15 development and contributes to the social ills of Illinois
16 residents. Federal and State regulations prohibit
17 discrimination because of race, color, religion, sex, or
18 national origin in employment and training programs. The
19 State is committed to ensuring that minorities and females
20 are provided apprenticeship/training and self-improvement
21 opportunities in the building trades on construction

1 contracts funded in whole with State funds to assist in their
2 increased employment in the building trades.

3 Section 10. Definitions. As used in this Act:

4 "Minority" has the definition contained in Section 10 of
5 the State Employment Records Act.

6 "Apprentice program" means an apprentice program in the
7 building trades that is authorized by the Bureau of
8 Apprenticeship Training of the U.S. Department of Labor.

9 "Apprentice" means a participant in an apprentice
10 program.

11 "Training program" means a training program in the
12 building trades that is approved by the Bureau of Small
13 Business Enterprises of the Illinois Department of
14 Transportation.

15 "Trainee" means a participant in a training program.

16 "Apprentice plan" means a written description of the
17 manner in which each minority or female apprentice shall be
18 used on a project.

19 "Training plan" means a written description of the manner
20 in which each minority or female trainee shall be used on a
21 project.

22 Section 15. Plan.

23 (a) To facilitate the provision of
24 apprenticeship/training opportunities for minorities and
25 women in the building trades, the Director of the Capital
26 Development Board and the Secretary of Transportation shall
27 designate specific contracts let by the respective agencies
28 as subject to an apprentice/training plan promoting
29 employment opportunities for minorities and women.

30 (b) In selecting contracts for participation in the
31 apprentice/training plan approved under this Act and in
32 establishing the applicable goals for each selected contract,

1 the Secretary of Transportation shall consider the following
2 criteria:

3 (1) The nature of a project to ensure that it has
4 the potential for providing effective training
5 opportunities within the applicable apprentice/training
6 program.

7 (2) The duration of the contract, work schedules
8 for project completion, and labor intensiveness of work
9 areas.

10 (3) The magnitude or dollar amount of the contract.

11 (4) The scope of work to be performed.

12 (5) The total normal building trade work force that
13 the average low bidder could be expected to use.

14 (6) The ratio of apprentices/trainees to journeymen
15 that it would be feasible for the average low bidder to
16 use as part of the contractor's work force during normal
17 operations, including the consideration of the relevant
18 provisions of any applicable collective bargaining
19 agreement or approved training program.

20 (c) For each designated contract subject to the
21 apprentice/training plan approved under this Act, the
22 Director of the Capital Development Board or the Secretary of
23 Transportation shall establish goals for the number of
24 minority and female apprentices/trainees in the building
25 trades to be assigned work on the contract, expressed in
26 terms of hours of assigned work. The bidder and the
27 appropriate labor organization shall commit to the employment
28 of minority and female apprentices/trainees on the contract
29 equal to or greater than each of the applicable goals. In
30 employing minority and female apprentices/trainees, the
31 successful bidder shall give preference to minority and
32 female apprentices/trainees who are already participants in
33 an apprentice/training program. The Director of the Capital
34 Development Board or the Secretary of Transportation, as

1 applicable, shall require the appropriate labor organizations
2 and joint apprenticeship training committees to submit to the
3 Director of the Capital Development Board or the Secretary of
4 Transportation lists of the individuals in applicable
5 apprentice/training programs. The lists shall show the name,
6 address, sex, and race of each individual. The Director of
7 the Capital Development Board or the Secretary of
8 Transportation shall use the lists in establishing goals
9 under this subsection (c).

10 (d) If the goals established by the Director of the
11 Capital Development Board or the Secretary of Transportation
12 for a designated contract under subsection (c) are not met
13 because of the composition of the individuals assigned by a
14 labor organization for employment in apprentice/trainee
15 positions under that contract, the contractor may submit a
16 request to the Director of the Capital Development Board or
17 the Secretary of Transportation, as applicable, for a waiver
18 as to those goals. The contractor shall submit such
19 documentation as may be requested by the Director of the
20 Capital Development Board or the Secretary of Transportation,
21 as applicable, in connection with the request and the
22 reasonable good faith efforts of the contractor to hire
23 minorities and females for apprentice/trainee positions. If
24 the documentation supports the contractor's waiver request,
25 the Director of the Capital Development Board or the
26 Secretary of Transportation, as applicable, shall grant the
27 waiver.

28 (e) In the event that a contractor subcontracts a
29 portion of the contract work, he or she shall determine how
30 many, if any, of the trainees are to be trained by the
31 subcontractor, provided, however, that the contractor shall
32 retain the primary responsibility for meeting the training
33 requirements imposed by this special provision.

34 (f) Within 10 days following the approval of the

1 contractor's required bond, the contractor shall submit to
2 the Director of the Capital Development Board or the
3 Secretary of Transportation, as applicable, a copy of the
4 plan for using minority and female apprentices/trainees on
5 the project, including the number of apprentices/trainees to
6 be trained in each selected classification and the
7 corresponding apprentice/training programs to be used. If a
8 subcontract is let for a portion of the work, the contractor
9 may determine the extent to which apprentices/trainees are to
10 be trained by the subcontractor, but the contractor shall
11 retain responsibility for meeting the applicable goals or
12 shall submit with its bid a request for a partial or total
13 waiver of the established goals.

14 (g) A contractor's plan for using minority and female
15 apprentices/trainees shall be approved only if it meets the
16 standards set forth with regard to:

17 (1) The primary objectives of training and
18 upgrading minority and female workers within applicable
19 apprentice/training programs.

20 (2) Whether the classifications proposed are
21 appropriate for the specific project. The character,
22 duration, and nature of the project operations shall
23 readily support the proposed apprentice/training plan.

24 (h) If the contractor's submission is not acceptable, or
25 if, in the opinion of the Director of the Capital Development
26 Board or the Secretary of Transportation, as applicable, the
27 character, duration, or nature of the project operations
28 cannot support the proposed apprentice/trainee
29 classification, the apprentice/training plan shall not be
30 approved. The contractor's submission shall be returned for
31 correction and resubmission.

32 (i) The contractor shall submit to the Director of the
33 Capital Development Board or the Secretary of Transportation,
34 as applicable, a monthly report, as specified by the Director

1 or the Secretary, detailing the use of apprentices/trainees
2 during the prior month.

3 (j) When the Director of the Capital Development Board
4 or the Secretary of Transportation, as applicable, has
5 determined that the contractor has failed to comply with any
6 of the apprentice/training plan requirements, the Director or
7 the Secretary may notify the contractor of any non-compliance
8 and withhold up to 5% of the current progress or final
9 payment due the contractor until it is determined that the
10 contractor is in compliance or that, despite the contractor's
11 making all reasonable good faith efforts, it is unable to
12 meet the established goals.

13 (k) In the case of a contract with the Illinois
14 Department of Transportation, the contractor shall implement
15 specific recruitment actions to ensure equality of
16 opportunity for minorities and females in apprenticeship and
17 training programs. The recruitment shall comply with the
18 guidance specified under the Illinois Department of
19 Transportation specific equal employment opportunity
20 responsibilities of the Supplemental Specifications and
21 Recurring Special Provisions Rule.

22 If the contractor has not, in good faith, sought to train
23 minorities and females as stipulated under the Supplemental
24 Specifications and Recurring Special Provisions, the
25 contractor shall be subject to sanctions set forth in the
26 agreement. The sanctions may include lowered
27 prequalification, suspension or cancellation of the contract,
28 debarment from further contracts, and liquidated damages.

29 The contractor's compliance status shall be determined by
30 monitoring and review procedures that are administered by the
31 Illinois Department of Transportation Bureau of Small
32 Business Enterprises.

33 (l) The contractor shall include all costs of compliance
34 for the apprentice/training plan in its bid. The contractor

1 will be reimbursed 80 cents per hour of training given an
2 employee in accordance with an approved apprentice/training
3 program. The contractor shall not be entitled to any
4 additional compensation from the State for additional costs,
5 delays, or expenses of any kind arising out of or resulting
6 from the implementation of this plan in the contract.

7 (m) Nothing in this Act shall be construed or enforced
8 to permit discrimination against any individual on the basis
9 of race, color, sex, or national origin with respect to
10 employment or apprenticeship/training opportunities on
11 contracts funded in whole with State funds.

12 (n) The Director of the Capital Development Board and
13 the Secretary of Transportation shall submit, at least once
14 each calendar quarter, a report to the Governor and General
15 Assembly detailing his or her implementation of the
16 apprentice/training plan established by this Act, and the
17 compliance of contractors with this Act.

18 Section 99. Effective date. This Act takes effect on
19 January 1, 2004."